

HOUSE BILL 1412

F1, Q2, Q3

EMERGENCY BILL

2lr0686

By: **Delegates Bohanan, Kaiser, Jones, Conway, Hixson, Branch, Guzzone, Luedtke, and Morhaim**

Introduced and read first time: February 27, 2012

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Education – Maintenance of Effort**

3 FOR the purpose of authorizing a county governing body, for a certain purpose under
4 certain circumstances, to set a property tax rate that is higher than the rate
5 authorized under the county's charter or to collect more property tax revenues
6 than are authorized under the county's charter, notwithstanding any provision
7 of a county charter that places certain limits on that county's property tax rate
8 or revenues; requiring a county to appropriate to the local board of education
9 certain revenues under certain circumstances; prohibiting a county from
10 reducing certain funding to the local board of education under certain
11 circumstances; requiring the Comptroller to make certain distributions under
12 certain circumstances to a county board; authorizing a county governing body,
13 for a certain purpose under certain circumstances for a certain time, to set an
14 income tax rate that is higher than the rate authorized under certain provisions
15 of law; establishing a certain penalty for a county that does not fund the local
16 share of the foundation program or the maintenance of effort requirement;
17 excluding the cost of debt service incurred for school construction projects from
18 a certain calculation; requiring a county to apply to the State Board of
19 Education for a waiver from the maintenance of effort requirement under
20 certain circumstances; establishing a penalty for a county that fails to apply for
21 a waiver and fails to fund the maintenance of effort requirement; establishing
22 the following years' required maintenance of effort amount under certain
23 circumstances; establishing the application procedure for a maintenance of
24 effort waiver; requiring the State Superintendent of Schools to make a
25 preliminary assessment of a waiver application; requiring the State Board to
26 hold a public hearing; establishing certain factors that the State Board shall
27 consider when deciding whether to grant a waiver request; requiring the State
28 Board to grant a waiver under certain circumstances; limiting the amount of a
29 waiver that the State Board may grant under certain circumstances;
30 authorizing a county to request a rebasing waiver under certain circumstances;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 requiring the State Board to consider certain factors when deciding whether to
2 grant a rebasing waiver; establishing a certain assessment under certain
3 circumstances; requiring the maintenance of effort amount to increase by a
4 certain amount under certain circumstances; requiring the Comptroller to
5 withhold certain funds from certain counties for a certain fiscal year; requiring
6 counties to apply for a waiver from the maintenance of effort requirement for a
7 certain fiscal year under certain circumstances; establishing the maintenance of
8 effort amount for a certain fiscal year; requiring counties to provide a certain
9 report under certain circumstances; establishing the required maintenance of
10 effort amount for a certain year; defining certain terms; providing for the
11 application of certain provisions of this Act; providing for the effective date of
12 certain provisions of this Act; making this Act an emergency measure; and
13 generally relating to local funding of education.

14 BY repealing and reenacting, with amendments,
15 Article – Education
16 Section 5–104, 5–202(d), and 5–213
17 Annotated Code of Maryland
18 (2008 Replacement Volume and 2011 Supplement)

19 BY repealing and reenacting, without amendments,
20 Article – Tax – General
21 Section 2–604, 2–605(a), 2–606(a), and 2–607(a)
22 Annotated Code of Maryland
23 (2010 Replacement Volume and 2011 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article – Tax – General
26 Section 2–608(a) and 10–106
27 Annotated Code of Maryland
28 (2010 Replacement Volume and 2011 Supplement)

29 BY adding to
30 Article – Education
31 Section 5–213.1
32 Annotated Code of Maryland
33 (2008 Replacement Volume and 2011 Supplement)

34 BY repealing and reenacting, with amendments,
35 Article – Education
36 Section 5–202(d)(1)
37 Annotated Code of Maryland
38 (2008 Replacement Volume and 2011 Supplement)
39 (As enacted by Section 3 of this Act)

40 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
41 MARYLAND, That the Laws of Maryland read as follows:

1 COUNTY'S CHARTER OR COLLECTS MORE PROPERTY TAX REVENUES THAN THE
2 REVENUES AUTHORIZED UNDER THE COUNTY'S CHARTER, THE COUNTY:

3 (I) MAY NOT REDUCE FUNDING PROVIDED TO THE COUNTY
4 BOARD FROM ANY OTHER LOCAL REVENUE SOURCE BELOW THE FUNDING
5 LEVEL IN THE CURRENT COUNTY BUDGET; AND

6 (II) SHALL APPROPRIATE TO THE COUNTY BOARD ALL
7 PROPERTY TAX REVENUES EXCEEDING THE AMOUNT THAT WOULD HAVE BEEN
8 AVAILABLE IF THE COUNTY CHARTER LIMITATION HAD APPLIED.

9 (3) A COUNTY THAT USES THE AUTHORITY PROVIDED IN THIS
10 SUBSECTION SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH §
11 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY, ON
12 OR BEFORE DECEMBER 31 OF EACH YEAR THE AUTHORITY IS USED ON THE
13 PROPERTY TAX RATE SET, THE AMOUNT OF REVENUES GENERATED BY THE
14 ADDITIONAL PROPERTY TAX AND THE APPROPRIATION OF THE FUNDS IN
15 ACCORDANCE WITH THIS SUBSECTION.

16 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
17 read as follows:

18 **Article – Tax – General**

19 2-604.

20 From the income tax revenue from individuals, the Comptroller shall distribute
21 the amount necessary to pay refunds relating to income tax from individuals to the
22 income tax refund account.

23 2-605.

24 (a) After making the distribution required under § 2-604 of this subtitle,
25 from the remaining income tax revenue from individuals, the Comptroller shall
26 distribute the cost of administering the income tax laws to an administrative cost
27 account.

28 2-606.

29 (a) After making the distributions required under §§ 2-604 and 2-605 of this
30 subtitle, from the remaining income tax revenue from individuals, the Comptroller
31 shall distribute to an unallocated individual revenue account the income tax revenue:

32 (1) with respect to which an income tax return is not filed; and

1 (2) that is attributable to:

2 (i) income tax withheld from salary, wages, or other
3 compensation for personal services under Title 10 of this article; or

4 (ii) estimated income tax payments by individuals.

5 2-607.

6 (a) After making the distributions required under §§ 2-604 through 2-606 of
7 this subtitle, from the remaining income tax revenue from individuals, the
8 Comptroller shall distribute to each special taxing district that received an income tax
9 revenue distribution in fiscal year 1977 and to each municipal corporation an amount
10 that, based on the certification of the Comptroller as to State income tax liability and
11 county income tax liability of the residents of the district or municipal corporation,
12 equals the greater of:

13 (1) subject to subsection (b) of this section, 17% of the county income
14 tax liability of those residents; or

15 (2) 0.37% of the Maryland taxable income of those residents.

16 2-608.

17 (a) **(1) AFTER MAKING THE DISTRIBUTIONS REQUIRED UNDER §§**
18 **2-604 THROUGH 2-607 OF THIS SUBTITLE, IF IT IS DETERMINED THAT A**
19 **COUNTY HAS NOT MET THE LOCAL FUNDING REQUIREMENTS FOR EDUCATION**
20 **UNDER § 5-202(D) OF THE EDUCATION ARTICLE, THE COMPTROLLER SHALL**
21 **DISTRIBUTE TO THE COUNTY BOARD OF EDUCATION AN AMOUNT EQUAL TO THE**
22 **AMOUNT CALCULATED UNDER § 5-213 OR § 5-213.1 OF THE EDUCATION**
23 **ARTICLE.**

24 **(2)** After making the distributions required under §§ 2-604 through
25 2-607 of this subtitle **AND PARAGRAPH (1) OF THIS SUBSECTION**, the Comptroller
26 shall distribute to each county the remaining income tax revenue from individuals
27 attributable to the county income tax for that county.

28 10-106.

29 (a) (1) **[Each] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS**
30 **SECTION, EACH** county shall set, by ordinance or resolution, a county income tax
31 equal to at least 1% but not more than the percentage of an individual's Maryland
32 taxable income as follows:

33 (i) 3.05% for a taxable year beginning after December 31, 1998
34 but before January 1, 2001;

1 (ii) 3.10% for a taxable year beginning after December 31, 2000
2 but before January 1, 2002; and

3 (iii) 3.20% for a taxable year beginning after December 31, 2001.

4 (2) A county income tax rate continues until the county changes the
5 rate by ordinance or resolution.

6 (3) (i) A county may not increase its county income tax rate above
7 2.6% until after the county has held a public hearing on the proposed act, ordinance,
8 or resolution to increase the rate.

9 (ii) The county shall publish at least once each week for 2
10 successive weeks in a newspaper of general circulation in the county:

11 1. notice of the public hearing; and

12 2. a fair summary of the proposed act, ordinance, or
13 resolution to increase the county income tax rate above 2.6%.

14 (4) Notwithstanding paragraph (1) or (2) of this subsection, in Howard
15 County, the county income tax rate may be changed only by ordinance and not by
16 resolution.

17 (b) **[If] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, IF** a
18 county changes its county income tax rate, the county shall:

19 (1) increase or decrease the rate in increments of one one-hundredth
20 of a percentage point, effective on January 1 of the year that the county designates;
21 and

22 (2) give the Comptroller notice of the rate change and the effective
23 date of the rate change on or before July 1 prior to its effective date.

24 **(C) (1) NOTWITHSTANDING SUBSECTIONS (A) AND (B) OF THIS**
25 **SECTION, AND SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, A**
26 **COUNTY GOVERNING BODY MAY SET AN INCOME TAX RATE THAT IS HIGHER**
27 **THAN THE RATE AUTHORIZED IN THIS SECTION FOR THE SOLE PURPOSE OF**
28 **FUNDING THE APPROVED BUDGET OF THE COUNTY BOARD OF EDUCATION.**

29 **(2) IF THE COUNTY GOVERNING BODY SETS A COUNTY INCOME**
30 **TAX RATE THAT IS GREATER THAN THE RATE AUTHORIZED IN THIS SECTION,**
31 **THE COUNTY:**

1 for a county is derived by dividing the county's highest local appropriation to its school
2 operating budget for the prior fiscal year by the county's full-time equivalent
3 enrollment for the prior fiscal year. For example, the calculation of the foundation aid
4 for fiscal year 2003 shall be based on the highest local appropriation for the school
5 operating budget for a county for fiscal year 2002. Program shifts between a county
6 operating budget and a county school operating budget may not be used to artificially
7 satisfy the requirements of this paragraph.

8 (3) For purposes of this subsection, for fiscal year 1997 and each
9 subsequent fiscal year, the calculation of the county's highest local appropriation to its
10 school operating budget for the prior fiscal year shall exclude:

11 (i) A nonrecurring cost that is supplemental to the regular
12 school operating budget, if the exclusion qualifies under regulations adopted by the
13 State Board; [and]

14 (ii) A cost of a program that has been shifted from the county
15 school operating budget to the county operating budget; AND

16 **(III) THE COST OF DEBT SERVICE INCURRED FOR SCHOOL**
17 **CONSTRUCTION PROJECTS.**

18 (4) The county board must present satisfactory evidence to the county
19 government that any appropriation under paragraph (3)(i) of this subsection is used
20 only for the purpose designated by the county government in its request for approval.

21 (5) Any appropriation that is not excluded under paragraph (3)(i) of
22 this subsection as a qualifying nonrecurring cost shall be included in calculating the
23 county's highest local appropriation to its school operating budget.

24 (6) Qualifying nonrecurring costs, as defined in regulations adopted by
25 the State Board, shall include but are not limited to:

26 (i) Computer laboratories;

27 (ii) Technology enhancement;

28 (iii) New instructional program start-up costs; and

29 (iv) Books other than classroom textbooks.

30 **(7) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,**
31 **IF A COUNTY'S ABILITY TO FUND THE MAINTENANCE OF EFFORT REQUIREMENT**
32 **IN PARAGRAPH (1)(II) OF THIS SUBSECTION IS IMPEDED, THE COUNTY SHALL**
33 **APPLY UNDER PARAGRAPH (8) OF THIS SUBSECTION TO THE STATE BOARD FOR**
34 **A WAIVER.**

1 **(II) IF A COUNTY FAILS TO APPLY TO THE STATE BOARD**
2 **FOR A WAIVER FROM THE MAINTENANCE OF EFFORT REQUIREMENT AND FAILS**
3 **TO MEET THE MAINTENANCE OF EFFORT REQUIREMENT:**

4 **1. THE COUNTY SHALL BE ASSESSED IN**
5 **ACCORDANCE WITH § 5-213 OF THIS SUBTITLE; AND**

6 **2. THE MINIMUM APPROPRIATION OF LOCAL FUNDS**
7 **REQUIRED UNDER THIS SUBSECTION FOR THE NEXT FISCAL YEAR SHALL BE**
8 **CALCULATED BASED ON THE PER PUPIL LOCAL APPROPRIATION FOR THE PRIOR**
9 **FISCAL YEAR IN WHICH THE COUNTY MET THE MAINTENANCE OF EFFORT**
10 **REQUIREMENT UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION.**

11 **[(7)] (8) (i) The [provisions] MAINTENANCE OF EFFORT**
12 **REQUIREMENT IN PARAGRAPH (1)(II) of this subsection [do] DOES not apply to a**
13 **county if the county is granted a [temporary waiver or partial] waiver from the**
14 **[provisions] REQUIREMENT by the State Board [of Education] based on:**

15 **1. [a]A determination UNDER THIS PARAGRAPH that**
16 **the county's fiscal condition significantly impedes the county's ability to fund the**
17 **maintenance of effort requirement;**

18 **2. SUBJECT TO PARAGRAPH (9) OF THIS**
19 **SUBSECTION, AN AGREEMENT BETWEEN THE COUNTY AND THE COUNTY BOARD**
20 **TO REDUCE RECURRING COSTS; OR**

21 **3. SUBJECT TO PARAGRAPH (10) OF THIS**
22 **SUBSECTION, A DETERMINATION THAT A COUNTY'S ABILITY TO MEET THE**
23 **MAINTENANCE OF EFFORT REQUIREMENT IS PERMANENTLY IMPEDED.**

24 **(ii) [After a public hearing, the State Board of Education may**
25 **grant a waiver under this paragraph in accordance with its regulations.**

26 **(iii) In order to qualify for [the] A waiver [under this paragraph]**
27 **for a fiscal year, a county shall make a request for a waiver to the State Board [of**
28 **Education by April 1] BY THE EARLIER OF THE SEVENTH DAY FOLLOWING THE**
29 **END OF THE LEGISLATIVE REGULAR SESSION OR APRIL 20 of the prior fiscal year.**

30 **(III) THE STATE SUPERINTENDENT SHALL PROVIDE A**
31 **PRELIMINARY ASSESSMENT OF A WAIVER REQUEST TO THE STATE BOARD**
32 **BEFORE A PUBLIC HEARING HELD IN ACCORDANCE WITH SUBPARAGRAPH (IV)**
33 **OF THIS PARAGRAPH.**

1 **(IV) BEFORE ACTING ON A REQUEST FOR A WAIVER, THE**
2 **STATE BOARD SHALL HOLD A PUBLIC HEARING IN ACCORDANCE WITH**
3 **REGULATIONS ADOPTED BY THE STATE BOARD.**

4 **(V) EXCEPT AS PROVIDED IN PARAGRAPH (9) OF THIS**
5 **SUBSECTION, WHEN CONSIDERING WHETHER TO GRANT A COUNTY'S WAIVER**
6 **REQUEST, THE STATE BOARD SHALL CONSIDER THE FOLLOWING FACTORS:**

7 1. **EXTERNAL ENVIRONMENTAL FACTORS SUCH AS A**
8 **LOSS OF A MAJOR EMPLOYER OR INDUSTRY AFFECTING A COUNTY OR A BROAD**
9 **ECONOMIC DOWNTURN AFFECTING MORE THAN ONE COUNTY;**

10 2. **A COUNTY'S TAX BASE;**

11 3. **RATE OF INFLATION RELATIVE TO GROWTH OF**
12 **STUDENT POPULATION IN A COUNTY;**

13 4. **MAINTENANCE OF EFFORT REQUIREMENT**
14 **RELATIVE TO A COUNTY'S STATUTORY ABILITY TO RAISE REVENUES;**

15 5. **A COUNTY'S HISTORY OF EXCEEDING THE**
16 **REQUIRED MAINTENANCE OF EFFORT AMOUNT UNDER PARAGRAPH (1)(II) OF**
17 **THIS SUBSECTION;**

18 6. **AN AGREEMENT BETWEEN A COUNTY AND A**
19 **COUNTY BOARD THAT A WAIVER SHOULD BE GRANTED;**

20 7. **SIGNIFICANT REDUCTIONS IN STATE AID TO A**
21 **COUNTY AND MUNICIPALITIES OF THE COUNTY FOR THE FISCAL YEAR FOR**
22 **WHICH A WAIVER IS REQUESTED; AND**

23 8. **THE NUMBER OF WAIVERS A COUNTY HAS**
24 **RECEIVED IN THE PAST 5 YEARS.**

25 **[(iv)](VI) The State Board [of Education] shall inform the**
26 **county whether the waiver for a fiscal year is approved or denied in whole or in part**
27 **[by May 15 of the prior fiscal year] NO LATER THAN 30 DAYS AFTER RECEIPT OF**
28 **AN APPLICATION OR MAY 20 OF THE PRIOR FISCAL YEAR, WHICHEVER IS**
29 **EARLIER.**

30 **[(v)](VII) [If the State Board of Education grants] EXCEPT AS**
31 **PROVIDED IN PARAGRAPHS (9) AND (10) OF THIS SUBSECTION, IF a county IS**
32 **GRANTED a [temporary waiver or partial] waiver from the provisions of this**
33 **subsection BY EITHER THE STATE BOARD OR THE GENERAL ASSEMBLY for any**

1 fiscal year, the minimum appropriation of local funds required under this subsection
2 [for the county to be eligible to receive the State share of the foundation program] for
3 the next fiscal year shall be calculated based on the per pupil local appropriation for
4 the prior fiscal year [or the second prior fiscal year, whichever is greater] **IN WHICH**
5 **THE COUNTY MET THE MAINTENANCE OF EFFORT REQUIREMENT UNDER**
6 **PARAGRAPH (1)(II) OF THIS SUBSECTION.**

7 **(9) (I) THIS PARAGRAPH APPLIES TO A COUNTY THAT**
8 **REQUESTS A WAIVER UNDER PARAGRAPH (8)(I)2 OF THIS SUBSECTION.**

9 **(II) THE STATE BOARD SHALL GRANT A WAIVER REQUEST**
10 **IN THE AMOUNT THAT HAS BEEN AGREED ON BY A COUNTY AND COUNTY BOARD**
11 **THAT IS ATTRIBUTABLE TO REDUCTIONS IN RECURRING COSTS.**

12 **(III) THE AMOUNT OF THE AGREED ON WAIVER MAY BE LESS**
13 **THAN THE ENTIRE AMOUNT OF THE REDUCTION IN RECURRING COSTS.**

14 **(IV) THE AMOUNT OF THE AGREED ON WAIVER MAY NOT:**

15 **1. EXCEED THE ENTIRE AMOUNT OF THE**
16 **REDUCTION IN RECURRING COSTS; OR**

17 **2. REDUCE A COUNTY'S EDUCATION**
18 **APPROPRIATION BELOW THE AMOUNT REQUIRED IN PARAGRAPH (1)(I) OF THIS**
19 **SUBSECTION.**

20 **(V) THE MINIMUM APPROPRIATION OF LOCAL FUNDS**
21 **REQUIRED UNDER THIS SUBSECTION FOR THE NEXT FISCAL YEAR SHALL BE**
22 **CALCULATED BASED ON THE PER PUPIL LOCAL APPROPRIATION FOR THE**
23 **CURRENT FISCAL YEAR APPROVED BY THE STATE BOARD UNDER THIS**
24 **PARAGRAPH.**

25 **(10) (I) IN THIS PARAGRAPH THE FOLLOWING TERMS HAVE THE**
26 **MEANINGS INDICATED.**

27 **1. "EDUCATION APPROPRIATION" INCLUDES ANY**
28 **MONEY REDIRECTED TO A COUNTY BOARD UNDER § 5-213 OR § 5-213.1 OF THIS**
29 **SUBTITLE.**

30 **2. "EDUCATION EFFORT" MEANS A COUNTY'S**
31 **EDUCATION APPROPRIATION DIVIDED BY THE COUNTY'S WEALTH.**

32 **3. "5-YEAR MOVING AVERAGE" MEANS THE**
33 **AVERAGE OF THE 5 YEARS BEFORE THE WAIVER YEAR.**

1 4. “WAIVER YEAR” MEANS THE FISCAL YEAR FOR
2 WHICH A WAIVER FROM THE MAINTENANCE OF EFFORT REQUIREMENT IN
3 PARAGRAPH (1)(II) OF THIS SUBSECTION IS REQUESTED.

4 (ii) THIS PARAGRAPH APPLIES TO A COUNTY THAT HAS:

5 1. RECEIVED A WAIVER UNDER PARAGRAPH (8)(I)1
6 OF THIS SUBSECTION FROM THE MAINTENANCE OF EFFORT REQUIREMENT; AND

7 2. A REQUIRED COUNTY EDUCATION
8 APPROPRIATION UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION FOR THE
9 WAIVER YEAR THAT EXCEEDS 100% OF THE STATEWIDE 5-YEAR MOVING
10 AVERAGE OF EDUCATION EFFORT TIMES A COUNTY’S LOCAL WEALTH.

11 (iii) A COUNTY THAT SATISFIES THE REQUIREMENTS UNDER
12 SUBPARAGRAPH (II) OF THIS PARAGRAPH MAY REQUEST A REBASING WAIVER
13 FROM THE STATE BOARD.

14 (iv) WHEN CONSIDERING WHETHER TO GRANT A COUNTY’S
15 WAIVER REQUEST UNDER THIS PARAGRAPH, THE STATE BOARD SHALL
16 CONSIDER THE FOLLOWING FACTORS:

17 1. WHETHER A COUNTY HAS SUBMITTED
18 SUFFICIENT EVIDENCE THAT THE FACTORS IN PARAGRAPH (8)(V) OF THIS
19 SUBSECTION WILL AFFECT A COUNTY’S ONGOING ABILITY TO MEET THE
20 MAINTENANCE OF EFFORT REQUIREMENT;

21 2. WHETHER A COUNTY IS AT ITS MAXIMUM TAXING
22 AUTHORITY UNDER THE LAW;

23 3. WHETHER A COUNTY’S EDUCATION
24 APPROPRIATION IS COMMENSURATE WITH A COUNTY’S WEALTH;

25 4. WHETHER A COUNTY’S HISTORY OF EXCEEDING
26 THE REQUIRED MAINTENANCE OF EFFORT HAS MADE MEETING THE
27 MAINTENANCE OF EFFORT REQUIREMENT IN FUTURE YEARS UNSUSTAINABLE;
28 AND

29 5. WHETHER A COUNTY HAS RECEIVED A REBASING
30 WAIVER IN THE PAST 5 YEARS.

1 **(V) IF THE STATE BOARD GRANTS A REBASING WAIVER**
2 **UNDER THIS PARAGRAPH, THE AMOUNT OF THE WAIVER FOR ANY FISCAL YEAR**
3 **IS LIMITED TO THE LESSER OF:**

4 **1. AN AMOUNT THAT WOULD RESULT IN A COUNTY'S**
5 **EDUCATION EFFORT FOR THE WAIVER YEAR FALLING BELOW THE LEVEL**
6 **ESTABLISHED IN SUBPARAGRAPH (II)2 OF THIS PARAGRAPH; OR**

7 **2. A. FOR A COUNTY WITH A 5-YEAR MOVING**
8 **AVERAGE FOR EDUCATION EFFORT THAT IS LESS THAN OR EQUAL TO 110% OF**
9 **THE STATEWIDE 5-YEAR MOVING AVERAGE OF EDUCATION EFFORT, 1% OF THE**
10 **COUNTY'S REQUIRED MAINTENANCE OF EFFORT REQUIREMENT;**

11 **B. FOR A COUNTY WITH A 5-YEAR MOVING AVERAGE**
12 **FOR EDUCATION EFFORT THAT IS MORE THAN 110% AND LESS THAN OR EQUAL**
13 **TO 120% OF THE STATEWIDE 5-YEAR MOVING AVERAGE OF EDUCATION EFFORT,**
14 **2% OF THE COUNTY'S REQUIRED MAINTENANCE OF EFFORT REQUIREMENT; OR**

15 **C. FOR A COUNTY WITH A 5-YEAR MOVING AVERAGE**
16 **FOR EDUCATION EFFORT THAT IS MORE THAN 120% OF THE 5-YEAR MOVING**
17 **STATEWIDE AVERAGE OF EDUCATION EFFORT, 3% OF THE COUNTY'S REQUIRED**
18 **MAINTENANCE OF EFFORT REQUIREMENT.**

19 **(VI) 1. IF THE STATE BOARD GRANTS A REBASING**
20 **WAIVER UNDER THIS PARAGRAPH, THE MINIMUM APPROPRIATION OF LOCAL**
21 **FUNDS REQUIRED UNDER THIS SUBSECTION FOR THE NEXT FISCAL YEAR SHALL**
22 **BE CALCULATED BASED ON THE PER PUPIL LOCAL APPROPRIATION FOR THE**
23 **CURRENT FISCAL YEAR APPROVED BY THE STATE BOARD UNDER THIS**
24 **PARAGRAPH.**

25 **2. IF THE STATE BOARD GRANTS A REBASING**
26 **WAIVER TO BE IMPLEMENTED OVER A MULTIYEAR PERIOD, WHICH MAY NOT**
27 **EXCEED 3 YEARS, IN EACH YEAR THE MINIMUM APPROPRIATION OF LOCAL**
28 **FUNDS REQUIRED UNDER THIS SUBSECTION FOR THE NEXT FISCAL YEAR SHALL**
29 **BE CALCULATED BASED ON THE PER PUPIL LOCAL APPROPRIATION FOR THE**
30 **CURRENT FISCAL YEAR APPROVED BY THE STATE BOARD UNDER THIS**
31 **PARAGRAPH.**

32 **(VII) IF THE STATE BOARD DOES NOT GRANT A WAIVER**
33 **UNDER THIS PARAGRAPH, THE MINIMUM APPROPRIATION OF LOCAL FUNDS**
34 **REQUIRED UNDER THIS SUBSECTION FOR THE NEXT FISCAL YEAR SHALL BE**
35 **CALCULATED BASED ON THE PER PUPIL LOCAL APPROPRIATION FOR THE PRIOR**

1 FISCAL YEAR IN WHICH THE COUNTY MET THE MAINTENANCE OF EFFORT
2 REQUIREMENT UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION.

3 (VIII) NOTHING IN THIS PARAGRAPH PRECLUDES A COUNTY
4 FROM ALSO REQUESTING A WAIVER FROM THE MAINTENANCE OF EFFORT
5 REQUIREMENT UNDER PARAGRAPHS (8) OR (9) OF THIS SUBSECTION FOR THE
6 SAME FISCAL YEAR AS THE WAIVER REQUESTED UNDER THIS PARAGRAPH.

7 5-213.

8 (a) After notification from the State Superintendent that a county is not
9 complying with the provisions of the State program of public education, the State
10 Comptroller shall withhold any installment due the county from the General State
11 School Fund.

12 (b) (1) If the Superintendent finds that a county [is not complying with
13 the maintenance of local effort provisions of § 5-202 of this subtitle or that a county]
14 fails to meet the requirements of Subtitle 4 of this title, the Superintendent shall
15 notify the county of such noncompliance.

16 (2) If a county disputes the finding within 30 days of the issuance of
17 such notice, the dispute shall be promptly referred to the State Board of Education
18 which shall make a final determination.

19 (3) Upon receipt of certification of noncompliance by the
20 Superintendent or the State Board, [as the case may be,] the Comptroller shall
21 suspend, until notification of compliance is received[;

22 (i) For noncompliance with Subtitle 4 of this title], payment of
23 any funds due the county for the current fiscal year, as provided under § 5-202 of this
24 subtitle which are appropriated in the General State School Fund, to the extent that
25 the State's aid due the county in the current fiscal year under that section in the Fund
26 exceeds the amount which the county received in the prior fiscal year[; and

27 (ii) For noncompliance with § 5-202(d) of this subtitle, payment
28 of any funds due the county for the following fiscal year, as provided under § 5-202 of
29 this subtitle, which are appropriated in the General State School Fund, in the amount
30 that the State's aid due the county in the current fiscal year under that section in the
31 Fund exceeded the amount that the county received in the prior fiscal year].

32 (C) (1) IF THE SUPERINTENDENT FINDS THAT A COUNTY IS NOT
33 COMPLYING WITH THE MAINTENANCE OF LOCAL EFFORT PROVISIONS OF §
34 5-202(D)(1)(II) OF THIS SUBTITLE, THE SUPERINTENDENT SHALL NOTIFY THE
35 COUNTY OF SUCH NONCOMPLIANCE.

1 **(2) IF A COUNTY DISPUTES THE FINDING WITHIN 30 DAYS AFTER**
2 **THE ISSUANCE OF A NOTICE UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE**
3 **DISPUTE SHALL BE REFERRED PROMPTLY TO THE STATE BOARD, WHICH SHALL**
4 **MAKE A FINAL DETERMINATION.**

5 **(3) (I) ON RECEIPT OF CERTIFICATION OF NONCOMPLIANCE**
6 **BY THE SUPERINTENDENT OR THE STATE BOARD AND SUBJECT TO**
7 **SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE COMPTROLLER SHALL, UNDER §**
8 **2-608 OF THE TAX – GENERAL ARTICLE, WITHHOLD INCOME TAX REVENUE**
9 **FROM THE COUNTY SO THAT THE TOTAL AMOUNT WITHHELD IS EQUAL TO THE**
10 **AMOUNT BY WHICH A COUNTY FAILED TO MEET THE MAINTENANCE OF EFFORT**
11 **REQUIREMENT.**

12 **(II) THE COMPTROLLER SHALL DISTRIBUTE THE AMOUNT**
13 **WITHHELD UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH DIRECTLY TO THE**
14 **COUNTY BOARD.**

15 **5-213.1.**

16 **(A) IF THE SUPERINTENDENT FINDS THAT A COUNTY IS NOT**
17 **COMPLYING WITH THE LOCAL SHARE OF THE FOUNDATION FLOOR REQUIRED**
18 **UNDER § 5-202(D)(1)(I) OF THIS SUBTITLE, THE SUPERINTENDENT SHALL**
19 **NOTIFY THE COUNTY OF SUCH NONCOMPLIANCE.**

20 **(B) IF A COUNTY DISPUTES THE FINDING WITHIN 30 DAYS OF THE**
21 **ISSUANCE OF A NOTICE UNDER SUBSECTION (A) OF THIS SECTION, THE DISPUTE**
22 **SHALL BE REFERRED PROMPTLY TO THE STATE BOARD, WHICH SHALL MAKE A**
23 **FINAL DETERMINATION.**

24 **(C) (1) ON RECEIPT OF CERTIFICATION OF NONCOMPLIANCE BY THE**
25 **SUPERINTENDENT OR THE STATE BOARD AND SUBJECT TO PARAGRAPH (2) OF**
26 **THIS SUBSECTION, THE COMPTROLLER SHALL, UNDER § 2-608 OF THE TAX –**
27 **GENERAL ARTICLE, WITHHOLD INCOME TAX REVENUE FROM THE COUNTY SO**
28 **THAT THE TOTAL AMOUNT WITHHELD IS EQUAL TO THE STATE SHARE OF THE**
29 **FOUNDATION PROGRAM PLUS THE DIFFERENCE BETWEEN THE AMOUNT**
30 **APPROPRIATED BY THE COUNTY UNDER § 5-202(D)(1)(I) AND THE LOCAL**
31 **SHARE OF THE FOUNDATION PROGRAM.**

32 **(2) THE COMPTROLLER SHALL DISTRIBUTE THE AMOUNT**
33 **WITHHELD UNDER PARAGRAPH (1) OF THIS SUBSECTION DIRECTLY TO THE**
34 **COUNTY BOARD.**

1 SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland
2 read as follows:

3 **Article – Education**

4 5–202.

5 (d) (1) (i) Subject to § 5–213.1 of this subtitle, the county governing
6 body shall levy and appropriate an annual tax sufficient to provide an amount of
7 revenue for elementary and secondary public education purposes equal to the local
8 share of the foundation program.

9 (ii) 1. [Subject] **EXCEPT AS PROVIDED IN ITEM 2 OF THIS**
10 **SUBPARAGRAPH AND SUBJECT** to § 5–213 of this subtitle, the county governing
11 body shall appropriate local funds to the school operating budget in an amount no less
12 than the product of the county’s full-time equivalent enrollment for the current fiscal
13 year and the local appropriation on a per pupil basis for the prior fiscal year.

14 2. **IF A COUNTY’S EDUCATION EFFORT, AS DEFINED**
15 **IN PARAGRAPH (10) OF THIS SUBSECTION, IS BELOW 100% OF THE STATEWIDE**
16 **5–YEAR MOVING AVERAGE OF EDUCATION EFFORT, THE REQUIRED**
17 **MAINTENANCE OF EFFORT AMOUNT FOR THE COUNTY SHALL BE ADJUSTED BY**
18 **INCREASING THE PER PUPIL AMOUNT BY THE LESSER OF:**

19 A. **A COUNTY’S INCREASE IN THE LOCAL WEALTH**
20 **PER PUPIL;**

21 B. **THE STATEWIDE AVERAGE INCREASE IN LOCAL**
22 **WEALTH PER PUPIL; OR**

23 C. **2.5%.**

24 SECTION 5. AND BE IT FURTHER ENACTED, That, notwithstanding any
25 other provision of law, for any county that does not meet the maintenance of effort
26 funding requirement under § 5–202(d) of the Education Article in fiscal year 2012 and
27 does not receive a waiver from the State Board of Education under Section 6 of this
28 Act, as authorized under § 2–608(a) of the Tax – General Article as amended by this
29 Act, the Comptroller shall withhold income tax revenue from the county in fiscal year
30 2013 in an amount equal to any increase in State aid provided to the county board of
31 education under § 5–202 of the Education Article in fiscal year 2012.

32 SECTION 6. AND BE IT FURTHER ENACTED, That, notwithstanding any
33 other provision of law, any county that does not meet the maintenance of effort
34 funding requirement under § 5–202(d) of the Education Article in fiscal year 2012, and
35 that is eligible to apply for a fiscal year 2013 rebasing waiver under § 5–202(d)(10) of

1 the Education Article as amended by this Act, shall apply to the State Board of
2 Education for a maintenance of effort waiver for fiscal years 2012 and 2013.

3 SECTION 7. AND BE IT FURTHER ENACTED, That, except as provided in
4 Section 6 of this Act, the required maintenance of effort amount under § 5–202(d) of
5 the Education Article for each county for fiscal year 2013 shall be calculated based on
6 the per pupil amount required for the county to meet maintenance of effort in fiscal
7 year 2012.

8 SECTION 8. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall
9 be applicable to all taxable years beginning after June 30, 2012.

10 SECTION 9. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
11 be applicable to all taxable years beginning after December 31, 2011.

12 SECTION 10. AND BE IT FURTHER ENACTED, That Section 4 of this Act
13 shall take effect July 1, 2014.

14 SECTION 11. AND BE IT FURTHER ENACTED, That this Act is an
15 emergency measure, is necessary for the immediate preservation of the public health
16 or safety, has been passed by a yea and nay vote supported by three–fifths of all the
17 members elected to each of the two Houses of the General Assembly, and, except as
18 provided in Section 10 of this Act, shall take effect from the date it is enacted.